

REMARKS

This Amendment is being filed in response to the Office Action mailed on April 22, 2009, which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-2 and 4-10 are pending in the Application.

In the Office Action, claims 1, 2, 7 and 9 are rejected under 35 U.S.C. §103(a) over non-patent Literature ("Sony/Philips") in view of U.S. Patent No. 6,963,527 to Ohkura ("Ohkura"). Claims 4-6 and 10 are rejected under 35 U.S.C. §103(a) over Sony/Philips in view of Ohkura and further in view of U.S. Patent No. 5,732,062 to Yokoi ("Yokoi"). Further, claim 8 is rejected under 35 U.S.C. §103(a) over Sony/Philips in view of Ohkura and further in view of U.S. Patent No. 6,515,949 ("Masaki"). The rejection of claims 1-2 and 4-10 is respectfully traversed. It is respectfully submitted that claims 1-2 and 4-10 are allowable over Sony/Philips in view of Ohkura alone, and in view of Yokoi and Masaki for the following reasons.

It is undisputed that "Sony/Philips is deficient in disclosing irradiating an information layer with a pulsed radiation beam to record marks on said information layer, said information layer having a phase that is reversibly changeable between a crystal phase and an amorphous phase, and wherein the periods I_{Ag} and I_{Ap} have an unequal duration not equal to T ." (See, Office Action,

page 3.) Ohkura is cited to provide that which is admitted missing from Sony/Philips, yet it is respectfully submitted that reliance on Ohkura is misplaced.

In fact, it is respectfully submitted that Ohkura is not prior art to the present patent application.

Ohkura has a U.S. filing date of January 28, 2003. The present patent application is based on PCT Patent Application No. PCT/IB03/05739, filed on December 4, 2003 and claims priority to European Patent Application No. 02080394.6 ("Priority Document"), filed on December 19, 2002. Please note that on the "Notification of Acceptance of Application under 35 U.S.C. 371 mailed from the U.S. Patent and Trademark Office on December 4, 2003, receipt of the Priority Document was acknowledged. This Priority Document was provided in the English language. Accordingly, the present patent application has a priority date of December 19, 2002 which is prior to the priority date of Ohkura. Ohkura is therefore not prior art to the present patent application.

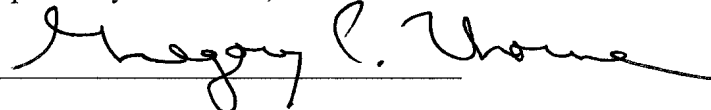
Based on the foregoing, since it is undisputed that Sony/Philips is deficient in showing that which is recited in the claims and Ohkura is not prior art to the present application, it is respectfully submitted that claims 1-2 and 4-10 are allowable and an indication to that effect is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position,

should that become necessary. No arguments are waived and none of the Examiner's statements are conceded. Moreover, Applicants do not concede that any of the cited references, and in particular, Sony/Philips, are prior art references against the present application. It is respectfully submitted that the claims are amended merely in the interest of furthering the prosecution and expediting consideration and allowance of the present application.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

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